

LEGISTAR: 200240
DISTRICT #: ALL

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda


 X Resolution or Ordinance (Blue) X Waiver of First Requested
 Recommendations of Boards, Commissions & Committees (Green)
 Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott Niehaus, Village Manager

DATE: July 29, 2020 **(BOT) Date:** August 20, 2020

SUBJECT: Vacation of Magnolia Circle ROW between Cherry Lane and Madison Meadows Park

SUBMITTED BY: Carl S. Goldsmith, Director of Public Works 

BACKGROUND/POLICY IMPLICATIONS:

The Village of Lombard had previously adopted Ordinance 7344 that vacated a portion of the Magnolia Circle right-of-way to the property owner of 906 Cherry Lane. The property has been conveyed to a new owner. The amended Ordinance provides that the rights and obligations assigned to the previous owner carry forward to the new owners.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney _____ Date _____

Finance Director _____ Date _____

Village Manager _____ Date _____

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the agenda distribution.



July 30, 2020

TO: Village President and Board of Trustees

THROUGH: Scott Niehaus, Village Manager

FROM: Carl Goldsmith, Director of Public Works

SUBJECT: Ordinance Amending Ordinance 7344 in regard to the Vacation of a Portion of Magnolia Circle between Cherry Lane and Madison Meadows Park

Background

At the April 6, 2017 Village Board meeting, the Village Board adopted Ordinance 7344, which vacated the Magnolia Circle right-of-way (ROW) located west of Cherry Lane to the two abutting property owners (to the north and south). The area that was vacated is depicted below.



The Village was notified by the property owner at 906 Cherry Lane that effective July 22, 2020, the ownership of Parcel 2 had changed. As part of the conveyance of Parcel 2, all of the rights and obligations contained in Ordinance 7344 were assigned to the former property owners, the Frances Brach Trust. The Amended Ordinance before the Village Board for consideration codifies the assignment of the rights under the Village Ordinance to the new owners of Parcel 2, Joseph E. Garvey.

The Public Works Department respectfully requests that this matter be placed on the Village Board agenda for the August 20, 2020 meeting. Should you have any questions, please feel free to contact me.

Recommendation

Staff recommends that the Village Board of Trustees adopt AN ORDINANCE AMENDING ORDINANCE NO. 7344, ADOPTED APRIL 6, 2017, IN REGARD TO VACATING A PORTION OF MAGNOLIA CIRCLE, BETWEEN CHERRY LANE AND MADISON MEADOWS PARK.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE NO. 7344, ADOPTED APRIL 6, 2017,
AS AMENDED BY ORDINANCE NO. 7608, ADOPTED NOVEMBER 15, 2018,
IN REGARD TO VACATING A PORTION OF MAGNOLIA CIRCLE,
BETWEEN CHERRY LANE AND MADISON MEADOWS PARK**

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: That the President and Board of Trustees (hereinafter the "Corporate Authorities") of the Village of Lombard (hereinafter the "Village") find as follows:

- A. That, on April 6, 2017, the Corporate Authorities approved Ordinance No. 7344, entitled "AN ORDINANCE VACATING A PORTION OF MAGNOLIA CIRCLE, BETWEEN CHERRY LANE AND MADISON MEADOWS PARK" (hereinafter the "Original Ordinance").
- B. That, on November 15, 2018, the Corporate Authorities approved Ordinance No. 7608, entitled "AN ORDINANCE AMENDING ORDINANCE NO. 7344, ADOPTED APRIL 6, 2017, IN REGARD TO VACATING A PORTION OF MAGNOLIA CIRCLE, BETWEEN CHERRY LANE AND MADISON MEADOWS PARK" (hereinafter the "Amending Ordinance"), to substitute the new owner of title to PARCEL 1 for the Parcel 1 Owner as referenced in the Original Ordinance (the Original Ordinance, as amended by the Amending Ordinance, being hereinafter the "Amended Ordinance").
- C. That, within sixty (60) days of the approval of the Original Ordinance, the Abutting Property Owners (as defined in the Original Ordinance) made the payments to the Village as referenced in Section 4.A. of both the Original Ordinance and the Amended Ordinance.
- D. That, pursuant to a Trustee's Deed, dated July 22, 2020, and recorded with the DuPage County Recorder's Office on July 27, 2020, as document number R2020-079905, the Parcel 2 Owner (as defined in both the Original Ordinance and the Amended Ordinance) conveyed title to PARCEL 2, as legally described in Section 1.C. of both the Original Ordinance and the Amended Ordinance, to Joseph E. Garvey.
- E. That, as part of the conveyance of title to PARCEL 2, as referenced in subsection D. above, the Parcel 2 Owner (as defined in both the Original Ordinance and the Amended Ordinance) assigned all of the Parcel 2 Owner's right, title and interest in the Original Ordinance to Joseph E. Garvey, pursuant to an Assignment of Village of Lombard Ordinance No.

7344, dated July 22, 2020, a copy of which is attached hereto as Exhibit 1 and made part hereof (the "Assignment").

F. That, as a result of the Assignment, it is necessary to amend the Amended Ordinance to indicate that Joseph E. Garvey is the Parcel 2 Owner.

SECTION 2: That, based on the findings, as set forth in Section 1 above, the Amended Ordinance is hereby amended as follows:

A. The reference to "L. Frances Brach, as Trustee under the Trust Agreement dated July 3, 2014, and known as the L. Frances Brach Trust", as contained in Section 1.C. of both the Original Ordinance and the Amended Ordinance, is amended to read "Joseph E. Garvey".

B. The agreement with, and acceptance of, the terms and conditions of the Amended Ordinance, by the Parcel 2 Owner, as contained in Section 10.B. of both the Original Ordinance and the Amended Ordinance, is amended to read in its entirety as follows, with the execution of the below provision, by Joseph E. Garvey, evidencing his agreement with and acceptance of the terms and conditions of the Amended Ordinance:

"B. JOSEPH E. GARVEY, being the Parcel 2 Owner, hereby voluntarily accepts, and agrees to be bound by, the terms and conditions of this Ordinance (Lombard Ordinance No. 7344, adopted April 6, 2017, as amended by Lombard Ordinance No. 7608, adopted November 15, 2018), relative to the vacation of the Vacated Street.

Joseph E. Garvey

CERTIFICATION

STATE OF ILLINOIS)
) SS
COUNTY OF DU PAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Joseph E. Garvey, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the signed instrument as his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this ____ day of _____, 2020.

Notary Public"

SECTION 3: That, in the event the Original Ordinance and the Amending Ordinance are recorded, pursuant to Section 9 of the Original Ordinance and Section 3 of the Amending Ordinance, the Director of Community Development is hereby directed to record the original signature copy of this Ordinance, along with the Original Ordinance and the Amending Ordinance, and a certification by the Village Clerk as to this Ordinance being the original signature copy thereof, with the DuPage County Recorder of Deeds.

SECTION 4: That this Ordinance shall be in full force and effect from and after its passage by a three-fourths (3/4ths) vote of the Trustees holding office, and approval, as required by law.

Passed on first reading this ____ day of _____, 2020.

First reading waived by action of the Board of Trustees this 20th day of August, 2020.

Passed on second reading this 20th day of August, 2020, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this 20th day of August, 2020.

William Ware, President Pro Tem

ATTEST:

Sharon Kuderna, Village Clerk

Exhibit 1

**Assignment of
Village of Lombard Ordinance No. 7344**

(attached)

ASSIGNMENT OF VILLAGE OF LOMBARD ORDINANCE NO. 7344

William J. Greene as the acting trustee of the L. Frances Brach Trust dated July 3, 2014 ("Assignor"), of 313 Circle Ave., Lombard, IL 60148, in consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration in hand paid, assigns, conveys and warrants to the grantee, Joseph E. Garvey ("Assignee"), of 906 Cherry Lane, Lombard, Illinois 60148, all right, title and interest Assignor has in and to the Village of Lombard Ordinance as approved by the President and Board of Trustees of the Village of Lombard on April 6, 2017 ("Ordinance") including the Fifteen Thousand and 00/100 Dollars (\$15,000.00) deposit made by Assignor to the Village of Lombard pursuant to the Ordinance. The subject of said Ordinance is the vacation of the Magnolia Circle right-of-way, north of property located at 906 Cherry Lane, Lombard, Illinois 60148, described below, with the eventual vesting of title to said vacated right-of-way in the owners of 906 Cherry Lane (the south 1/2 of the vacated right-of-way) and 902 Cherry Lane (the north 1/2 of the vacated right-of-way), Lombard, Illinois.

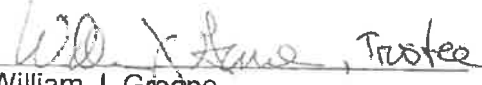
The property at 906 Cherry Lane, Lombard, Illinois is described below:

LOT 291 IN LOMBARD MEADOWS, A SUBDIVISION OF PART OF SECTION 16 AND 17, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 23, 1957 AS DOCUMENT 850186, IN DUPAGE COUNTY, ILLINOIS.

PIN: 06-17-217-001

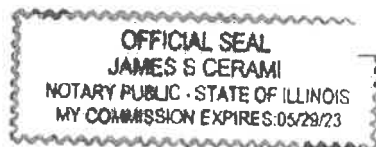
The above assignment of Ordinance is made in connection with the transfer of title in fee simple of the above described property at 906 Cherry Lane, Lombard, Illinois, from Assignor to Assignee. The Village of Lombard may rely on this instrument, as well as on the transfer of title described above in substituting in the Ordinance the name of the Assignee in lieu of the Assignor.

Dated: July 22, 2020


William J. Greene,
as trustee as aforesaid

State of Illinois, County of DuPage ss. I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that William J. Greene personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such trustee, for the uses and purposes therein set forth.

Given under my hand and official seal, this 22nd day of July, 2020.




Notary Public